



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

March 28, 2023

Via ECF

Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: *Knight First Amendment Institute at Columbia Univ. v. U.S. Dep't of State et al.*,
22 Civ. 3003 (KPF)

Dear Judge Failla:

This Office represents defendants the U.S. Department of State ("State"), the U.S. Department of Homeland Security ("DHS"), and the Office of the Director of National Intelligence ("ODNI"; collectively with State and DHS, "Defendants" or the "Agencies") in the above-referenced case brought by plaintiff Knight First Amendment Institute at Columbia University ("Plaintiff") pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552.

I write respectfully to provide a status update pursuant to the Court's order dated January 30, 2023. *See* Dkt. No. 29.

Since Defendants' prior status update, submitted on January 27, *see* Dkt. No. 27:

- (1) On February 15 and March 15, State reviewed records pursuant to the proposed schedule and issued rolling responses.
- (2) On February 6, ODNI issued a response letter and accompanying production of records that had been returned from consultations.
- (3) On March 27, DHS issued a response letter and accompanying production of records that had been returned from consultations.

All three Agencies continue to await certain responses to consultations with other agencies and components, which they continue to follow up on regularly. The status of the outstanding consultation requests is as follows:

- (1) State: Certain records the agency sent out for consultation to another agency in January have not yet been returned. State expects to receive a response to those consultations by the end of April. Further, State sent additional records out for consultation at the end of March and has requested responses within two weeks.

State intends to issue a response to Plaintiff within 15 days of receiving the consultation responses.

- (2) ODNI: In the process of preparing what it expected to be its final release, ODNI determined that three records required additional consultation. ODNI has requested a response by the end of April, and intends to issue a response to Plaintiff within 15 days of receiving the consultation response.
- (3) DHS: As noted above, DHS issued a response and accompanying production on March 27. After an additional review of the records previously sent for consultations, DHS determined that certain pages were duplicates or were non-responsive. After the most recent interim production, DHS has 34 remaining pages pending consultation. DHS expects to receive responses to the remaining consultations, and to issue a response to Plaintiff, by the date of the next status report.

Pursuant to the Court's order dated September 28, 2022, the Agencies will provide another status update in 60 days. If all outstanding consultation requests are completed and responses issued to Plaintiff before that date, Defendants respectfully propose to provide a status report to the Court within 14 days of the issuance of the final response.

Thank you for your consideration of this matter.

Respectfully submitted,

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cc: Counsel of record (via ECF)

The Court is in receipt of the above status update. Defendants shall submit a further update on or before the earlier of **May 29, 2023**, or 14 days after Defendants issue their final responses to Plaintiff.

SO ORDERED.

Dated: March 29, 2023
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE